

**Main Office**

P.O. BOX 620 / 6413 32nd Street / North Highlands / CA 95660
(916) 334-1221 Estimating / Engineering FAX (916) 334-0562
Accounting FAX (916) 334-8355

Southern California Regional Office

P.O. BOX 867 / 19010 Slover Ave. / Bloomington / CA 92316
(909) 875-0533 Engineering / Accounting FAX (909) 875-2243
Email & Mail

April 16, 2009

State of California
Department of Transportation
345 Burma Road
Oakland CA 94607

Attn: Ben Ghafghazi, R. E.

Re: Contract No. 04-0120L4
Bay Bridge Oakland Touchdown
Response to NOPC 10

Gentlemen,

MCM is in receipt of the State's letter dated April 15, 2009 responding to MCM's NOPC 10. We do not agree with the State's position that the Department has no contractual or legal authority to provide additional compensation for the impacts AB 3 has on projects costs. It is our position that the April 1, 2009 sales and use tax increase effectively amounts to an owner initiated change by the State of California, creating an unforeseeable condition and change in the law outside the contemplation of both the parties at the time of contract, therefore the State should compensate the MCM for changes in tax rates.

MCM however agrees to hold the DRB hearing process in abeyance until after the legislature has taken action on the Bill 1523, which may resolve the aforementioned issue.

Very truly yours,

MCM CONSTRUCTION, INC.

GREG ALLEN
Project Manager

CC: E. Puchi
C. Smith
R. McCall
307 File 7.0/16.0